

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK****USDC SDNY
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BC MEDIA FUNDING COMPANY II, Plaintiff, vs. FRANK LAZAUSKAS, MICHAEL L. METTER, LEONARD F. MOSCATI, B. MICHAEL PISANI, Defendants.	CIVIL ACTION NO. No. 1:08-cv-06228-RPP Hon. Robert P. Patterson ECF Case ORDER ON CONSENT RESOLVING PENDING MOTION FOR TURNOVER OF ASSETS AND DIRECTING LIQUIDATION OF CERTAIN ASSETS
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THIS MATTER having been opened to the Court at a settlement conference on December 4, 2009; and the parties having reported to the Court that they had reached a full and final settlement of all remaining disputes between them, the terms of which were placed on the record on December 4, 2009; and it further appearing that in connection with that settlement, the parties agreed to submit this Consent Order directing the liquidation of certain securities held by Ladenburg Thalmann & Co. Inc. ("Ladenburg") which are the subject of both a Stipulation entered by this Court on March 10, 2009 (Docket # 63)(the "Stipulation") and restraining notices served on Ladenburg and others; and it further appearing that BC MEDIA FUNDING COMPANY II ("Plaintiff") filed a motion for the turnover of certain assets on June 12, 2009 (Docket # 76)(the "Turnover Motion"), which sought the liquidation of certain securities accounts, including the securities held by Ladenburg under the Stipulation and by Ladenburg and Charles Schwab & Co., Inc. ("Charles Schwab") under restraining notices (the "Restrained Accounts"); and for good and sufficient cause shown,

It is on this 18th day of December, 2009,

ORDERED that the Turnover Motion is granted in part, and denied in part, as further set forth herein; and it is

FURTHER ORDERED that Ladenburg shall and is hereby authorized and directed to use commercially reasonable efforts to sell certain securities (in the sequence described in the following decretal paragraph) held in the Restrained Accounts, the proceeds of such sales to be paid to Putney, Twombly, Hall & Hirson, LLP, as the attorneys for Plaintiff, to fund the settlement. The sale of these securities shall continue until the earlier of (1) the time at which the proceeds of such sales reach \$1.1 million or (2) Ladenburg shall receive written instructions directing Ladenburg to cease the liquidation and release the restraints, which instructions shall be signed by Plaintiff's counsel, Putney, Twombly, Hall & Hirson, LLP and counsel for Defendant Frank Lazauskas, Stark & Stark, and may be delivered to Ladenburg in facsimile or electronic form (as well as in hard copy by any form of manual delivery. If and when the net proceeds of the sales meet or exceed \$1.1 million, Ladenburg shall cease its efforts to sell any remaining securities in any of the subject accounts, and it is

FURTHER ORDERED that the sales of such securities will proceed in the following order:

1. First, the Spongetech Delivery Systems stock in the account of Jean Lazauskas, Account # NJ5-001074,
2. If the proceeds of the foregoing account are less than \$1.1 Million, then all other Restrained accounts at Ladenburg's discretion.

FURTHER ORDERED that Ladenburg shall exercise all discretion reasonable and appropriate to accomplish the sale of all securities in such a manner as to maximize the price received for each of the securities; and it is

FURTHER ORDERED that Ladenburg shall pay to plaintiff's counsel no later than January 29, 2010, the net proceeds of the sales of the securities; and it is

FURTHER ORDERED that except as permitted by the terms of this Consent Order, the restraining notices in effect on the accounts at Ladenburg, Charles Schwab & Co., Inc. ("Charles Schwab") and any other accounts listed in the Turnover Motion shall continue in full force and effect until the further Order of this Court or the agreement of the parties; and it is

FURTHER ORDERED that in all other respects, the Turnover Motion is denied without prejudice.

December 25, 2009


HON. ROBERT P. PATTERSON, U.S.D.J.

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